Conservationists' Charges Against U.S. Agencies Could Bring a Landmark Decision on Development of Recreation Areas

Mineral King: Battleground On Use of Public Lands

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According to one who has made the journey often, the road into Mineral King has 322 turns in 22 miles. It looks, as this writer has observed previously, as though it had been surveyed by Ben Turpin, the cockeyed comedian of the silents, and Crazy Legs Hirsch, using a corkscrew for a transit.

It leads now to a battleground.

The outcome of the fight will have national ramifications, could threaten the present status of winter sports areas throughout the United States and may well detonate as fierce an uproar in Congress as conservationists and recreationists have ever joined.

Major parties immediately involved in a Federal court action are the Sierra Club, a farflung conservationist organization, against the U.S. Department of Agriculture and the U.S. Department of Interior—both also widely known for a concern with conservation.

Waiting on the sidelines with $35 million earmarked for transformation of Mineral King into a year-round family recreation center is Walt Disney Productions—marking time.

Nobody is going anywhere until the suit is settled.

To understand the latest impasse, and how it grew, consider some background:

In 1965, after considerable contest and careful study, the Department of Agriculture accepted the Disney bid over those of five rivals who, in response to Forest Service invitation, had competed for the right to develop Mineral King. Each firm had specified just how it would go about this, what it would do to protect the natural environment, how much it would spend, what facilities would be emplaced and how much it would pay the Forest Service in annual fees.

The Forest Service, of course, had laid down the minimum that would be required. From there on, it was a horse race. Disney's bid was ruled the best.

Even before then, however, and almost ever since, the Sierra Club has led attempts by some conservation and wildlife groups to block the project.

The latest attempt has won early success. Near the end of July, in San Francisco, U. S. District Judge William T. Sweigert granted a Sierra Club petition for a temporary restraining order which halted the issuance of construction permits. No date has been set for trial on whether the order shall become permanent. This probably will come within the next two or three months.

Mineral King was once an isolated mining community. It's a small valley in the western High Sierras, 55 miles east of Visalia, 228 miles northeast of Los Angeles and 271 miles southeast of San Francisco.

The last 25 miles is impassable in winter and well-nigh impossible in summer. For generations, Mineral King has been a mountain hideaway, a remote Paradise where some 60 cabin owners and countless hikers and campers enjoyed the pastoral beauty of meadow and stream and high peaks.

It is the peaks which set Mineral King apart. Several of them rise beyond 12,000 feet, and are linked with vast, treeless basins which in winter offer superb skiing conditions. They funnel onto long ridges and into small canyons leading to the valley floor. The snow comes early, goes late. The scenic grandeur of winter is rivalled only by the warmth of summer's welcome, fashioned by the grassy meadows, the scented pines and redwoods and a sparkling stream.

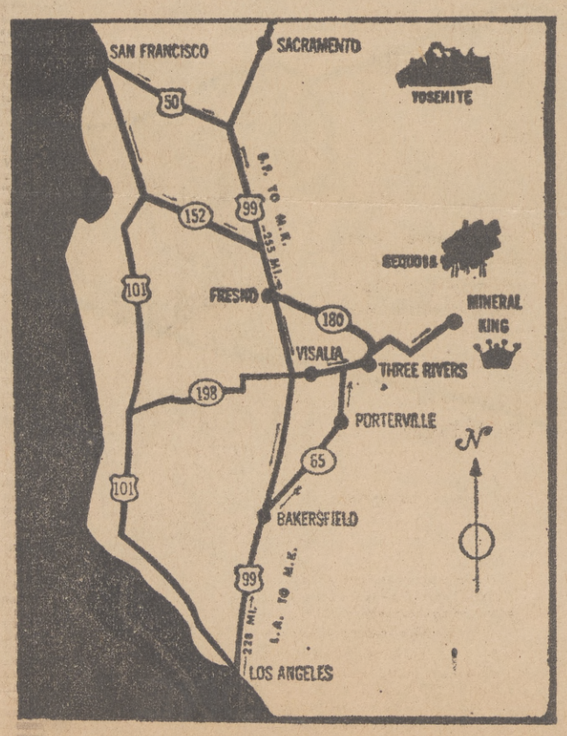
Mineral King, its proponents believe, could be one of the world's great winter resorts. They have the same feeling about its summer potential, for surveys indicate 60 per cent of visitations would come at this season.

Those surveys also indicate that the $35 million the Disney firm would spend to complete the project would generate secondary investments (service stations, motels, etc.) in Tulare County of $22 million, boost retail sales $104 million, and create payrolls and purchasing activity of another $100 million.

Once the project is running full throttle, it's estimated, it would continue to generate millions of dollars annually in retail sales, payrolls, secondary sales and taxes and fees. For example, it's expected that new payroll taxes would bring $2 million annually to the State, and $1½ million to Tulare County.

The U. S. Forest Service, which is the landlord and supervisor of Disney's every move on the land, would receive $600,000 or more annually, 25 per cent of which would be returned to the counties in which the Sequoia National Forest is located.

Mountains surrounding Mineral King reach as high as 12,405 feet. The valley floor, along the headwaters of the East Fork of the Kaweah River, is at 7800 feet. The altitude guarantees a long skiing season.



Forest Service policy has been to open the public lands to recreational use as the demand becomes apparent. Strict supervision and control, according to U. S. law and service regulations, has been part of that policy.

And now it is Forest Service policy that forms the target of the Sierra Club's latest suit.

The crux of the issue is this:

The Sierra Club charges that the Department of Agriculture (Forest Service) is about to circumvent Federal Law and the intent of Congress by letting the Disney group use 1000 acres or more in Mineral King for this project. Also, says the Sierra Club, up to 13,000 acres of Federal forest and game refuge may be affected.

The reason this would be against the law, says the Sierra Club, is that Congress specifically authorizes the Forest Service to issue multiple use permits for terms of 30 years only on parcels of 80-acres or less.

For years the Forest Service also has issued "revocable" permits which provide for the use of additional acreage on a yearly renewal basis. The authority for doing this was assumed under department regulations. Unlike the 30-year term permits (which make a development more attractive for an investor), these "revocables" must be renewed each year. The department has the right to revoke them at any time.

The 80-acre permit usually is used to get basic facilities running: Chairlift terminal, lodge, first aid shelter, ski patrol headquarters, restaurants, etc. The supplemental permit allows the developer to move rocks, cut brush, remove such timber as the Forest Service will allow, and otherwise prepare the area beyond the 80 acres for safe use.

The Forest Service specifies what erosion control must be accomplished, what kinds of grasses must be planted, where culverts must go—and, in short, monitors all construction and maintenance.

However, the Sierra Club says that permanent-type structures will go up on the Mineral King area to be covered by the one-year renewal permit, and this is proof in itself that no one intends to revoke that permit. It follows, then, says the Sierra Club argument, that this in effect is a long-term permit which grants the use of more than 80 acres, and therefore is circumventing the law.

How far the waves may break can be seen when you consider that the combination of the 80-acre, 30-year permit and the annual renewable supplemental permit has brought about the development of some 80 major U. S. winter resorts including Sun Valley, Aspen, Vail, Mammoth, Heavenly Valley, June Mountain, Crystal Mountain and most Southern California mountain retreats. Virtually every area on Forest Service land, and this includes most of them in the West, has been born, nurtured and developed under this combination.

In giving credence to the Sierra Club argument for an injunction, Judge Sweigert said, "The question arises whether this dual permit device is intended to circumvent the clear 80 acre limitation . . . and thereby accomplish what would be in effect a violation. . ."

Some resort developers contend that they are within the 80-acre limitation even though the area may spread over considerable distance because their specific facilities, that is, the chairlifts, only occupy an area within the limits as measured by their length and breadth of the lift line. That, however, may be a point for argument.

So will a great many other points. If the injunction is made permanent, redress will be attempted through the courts and through Congress. The first move, of course, would be to seek "remedial" legislation granting the Department of Agriculture the right to issue supplemental, long-term permits or an acceptable substitute.

And that's when the fiercest fights would begin. The conservationist lobby is powerful. Conservationists, for example, demolished legislation aimed at opening up 10 per cent of the San Gorgonio Wilderness Area some 70 miles from Los Angeles a few years ago.

To most of its supporters, the Sierra Club is a stalwart crusader, a group with high-level impact dedicated to preserving our national heritage in its natural state. It campaigns vigorously against any threat of encroachment on what are presently classified as natural wilderness lands, and seeks with equal vigor to get more and more acreage placed in this category which forbids roads or man-made structures.

Mineral King, is not in this category. It has a road to it, and man-made structures in it.

Under the Wilderness Act, sections of government land are set aside as inviolate, so far as roads and man made structures are concerned. California now has 1,600,420 acres in this category. In the last 5 years, 334,546 acres have been added to the wilderness preservation system.

Even though Mineral King is not classified as wilderness, the Sierra Club takes the view that it is "a threshhold of wilderness."

"We don't want to spoil that place," Walt Disney said in 1965, "the way some people say we'd do. We want to keep every bit as much of that environment as we can—and get people into it. It will take a lot of careful planning, and we'd do that. The Forest Service is responsible, of course, and we'd be responsible to them. It can be done properly, and it should be done."

Implicit in his words was the fact that leisure time is increasing, individuals must have somewhere to go—and it's better to have them going into an area under control and supervision than just overrunning the land willy-nilly.

At this point, though, the Disney group has been disarmed. It must wait—and it's determined to do this—while the Sierra Club and the two government agencies fight over the extent of authority.

The Department of Interior is involved in that it has agreed to grant the California Division of Highways a right-of-way across a narrow strip of National Park Service land a few miles before Mineral King is reached. (Earlier, the Sierra Club had fought this so bitterly it finally became a Cabinet level decision. Now the Sierra Club argues that such a road agreement was against Park Service policy established in January of last year. This directive called for public hearings on any major road project through a national park which would have substantial social, economic or environmental effect. The fact that Interior Secretary Hickel revoked this policy in the interest of letting the Park Service direct its own activities also is challenged by the Sierra Club petition which claims he didn't do this properly.)

Disney's present sideline position, however, is one of conference and plan, rather than of abject despair. There is no thought of conceding the opening rounds, the skirmish or the war.

Says Robert Hicks, Disney's Mineral King project manager from the outset: "People will have to understand we're not going to give up. It may sound a little corny, but it's true that we're dedicated to the program Walt laid out.

"It's up to the Forest Service, at this point. We have met all the provisions of our agreement. We submitted a master plan, and had it approved. We're ready to go ahead. Naturally, as long as there's an injunction against issuing any construction permits, the State isn't going to put out any road contracts, and we can't go ahead. "If we were some outfit with only one project, Mineral King, a move like this could kill us. But it's a totally different situation. We're a big corporation. Our people can work, and do work, on other projects all the time. The Florida project is much bigger than Mineral King. They're continually doing things at Disneyland. And, primarily, we produce motion pictures. So, moneywise, it's not crippling us the way it might hit someone else. We're prepared to stick it out all the way.

"It is a costly delay, however, in other terms. First off, it's just that much longer before people will get to enjoy the project. Those jobs, those payrolls that would be built up in Tulare County—well, they won't happen yet. The tax revenues to state and county, the fees to the Forest Service are delayed. Costs will go up to the state, as that highway contract is postponed. The only state highway money budgeted for Tulare County in fiscal '69-70 has been $1.8 million to get the new Mineral King road started. Now it won't be spent until this suit is settled—if then."

In its nigh-incessant campaign against the Disney program, the Sierra Club has charged that the development would overcrowd the beautiful valley.

"The acoustics of the high-lakes basin is excellent," one club summary points out. "Noise from hundreds of downhill hikers will degrade the quiet, remote atmosphere of the back country. The camaraderie of the trail will be lost to the impersonality of the freeway. . .Trampling, littering and pollution are other likely problems."

Too many people and too many structures are planned, says the Sierra Club. According to Michael McCloskey, the club's

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Proposed Mineral King Village, a focal point in Walt Disney Productions' master plan for the area.

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Mineral King: The Battleground

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staff director and major figure in the plaintiff presentation, there was no objection when there was talk over the years of "a modest development."

"The unveiling of the mammoth development schemes of the Disney interests in the fall of 1965, however, changed the club's mind," according to McCloskey.

John Flannery, another Sierra Club spokesman, was asked what alternatives the club might propose to satisfy the expanding need for mountain recreation outlets.

"Use the areas already established," Flannery suggested. "Air travel has made it much easier to reach places in Colorado and Nevada and elsewhere."

Flannery admitted additional costs would be a considerable factor to the visitor. He also recognized that most of the distant areas frequently are overcrowded on weekends.

"So more people should go at midweek," he said. "The time is coming when there will be work schedules which will permit this to a much greater degree than they do now."

Some Sierra Clubbers, misquoting a conservationist-writer, have said that opening Mineral King to the Disney public "would be like carving up Michaelangelo's statue of 'David' so everybody could have a piece."

The stand of the Sierra Club and its allies, simply, is that Mineral King is too beautiful to allow it to be spoiled—and that large-scale development would bring people to spoil it.

To the accusation Mineral King would become "a Disneyland in the mountains," the Forest Service prefers to quote Walt Disney himself: "Disneyland is entertainment. Mineral Ring will be outdoor recreation, developed primarily for families, and in full keeping with the environment."

To charges that development would threaten pollution and contamination to the east fork of the Kaweah River running through the two-mile valley, the Forest Service replies that "all sewage generated in the valley will be handled by the most completely modern sewage-collecting and treatment systems that can be designed. The Forest Service is determined that the handling of sewage at Mineral King will be second to none. It has no reservations that this aim can be achieved."

At present, the Forest Service report points out, only the crudest of facilities are present and it suggests that this poses a threat of pollution far greater than would exist under the planned development.

In reference to the entire program, Forest Service approval must be obtained on both general and detailed plans, on a site-by-site and facility-by-facility basis. All operations would be under Forest Service supervision, including such details as the prices charged.

WALT DISNEY

The late master as he surveyed Mineral King.

Certain specters arise in controversies of this scope. A major question is what will happen to public recreation on public lands if similar attacks are made every time someone—at the invitation, and under the supervision, of the Department of Agriculture—moves to establish a resort?

The Forest Service policy of combining permits has brought about the development of excellent resorts providing recreation for literally millions. Are those policies now to be voided?

If such resorts in the future were to be limited to 80 acres, where would they put the people?

If Mineral King development is blocked, what alternatives are there? And would such alternatives be subjected to the same resistance?

The court does not address itself to such a controversy, but is interested in determining whether the letter and-or intent of the law is being circumvented.

So far as winter recreation is concerned, Southern Californians point out the inconsistency of the season here, as compared with the Mineral King record of long winters with deep snow.

"Sometimes we have snow by Thanksgiving," said Bob Bergstrom, of Sports, Ltd., "and other times the mountains near Los Angeles don't get skiable snow until after Christmas. Sometimes we get two or three weeks of local skiing—other years four or five months."

Another point stressed by winter recreationists is the belief that the Forest Service as an agency supervising public lands for all the people knows better than the Sierra Club what policies are most equitable.

The Sierra Club and its associate "protectionists," on the other hand, maintain that without their continual monitorship irreversible damage would be done the wilderness environment and eventually it might all be destroyed.

When the temporary injunction was granted, Dr. Edgar Wayburn, president of the Sierra Club, said he was "delighted," and that, "This suit was filed . . . in the interests of the American people . . ."

There are several hundred thousand American people who would bitterly challenge that the Sierra Club had acted in their behalf. They also might term the action a rude surprise, in light of a statement made just a few months ago by a Sierra Club representative.

At the May convention of the Far West Ski Association, Frank Shoemaker, of Berkeley, a Sierra Club delegate (some of its members have a ski club), announced:

"Accepting the skiing development of Mineral King as a certainty, the Sierra Club is interested in seeing that there be the best planning possible of the access, the parking and of the valley itself, with respect to the forest and wildlife on one hand and service to skiers on the other. There are many organizations interested at this point in time in the overall success of the Mineral King development. That includes the Sierra Club."

Briefly startled, then overcome with the surfacing of long-buried hopes, the delegates gave Shoemaker a tremendous ovation.

Some two months later the suit was filed.

Dick Goetzman, of Los Angeles, president of the Far West Ski Association, said he would gladly lead what attempts may be feasible to defeat the Sierra Club move.

"The FWSA has always been for the development of Mineral King," said Goetzman, "under the usual strict and proper supervision of the Forest Service. It is an agency with great experience and has operated successfully for years under the policies now being challenged by the Sierra Club.

"The ski association is not against the Sierra Club on all things. As a matter of fact we share the same viewpoint in several areas. Skiers believe in the necessity to preserve natural beauty. By the very nature of our sport we show our appreciation for the outdoors. But we believe in making it more accessible.

"Too often the Sierra Club appears to believe that outdoor recreation is for a limited number of people."

Editor's Report: The Death of Ho